IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1633 OF 2007

Sandip Barku Bhosle. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

....

Ms.Heema Sharma, Adv. for Applicant.

Mr.K.V.Saste, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 21st June, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking bail in C.R.No.595 of 2006 of Mulund Police Station. The said case is mainly under Sections 302, 307 of IPC.

3. Vitthal Hingne who is an injured witness has stated that the present applicant came along with others and assaulted him and his brother Jagdish with knife, choppers, koyata and sword. Vitthal is the brother of deceased Jagdish and he was also injured in the incident.

4. Ms.Sharma has submitted that coaccused Vijay Istriwala and Latesh Karlekar have been released on bail and the case of the applicant is similar to these two coaccused. She has submitted that hence the applicant is entitled to be released on bail on the ground of parity. As far as this aspect is concerned, it is seen that Jagdish had made an oral dying declaration to Dnyaneshwar Ladse, the Police Naik. Dnyaneshwar has stated that he heard someone shouting for help. When he went there he saw six persons assaulting two persons. Thereafter those persons ran away. Thereafter he tried to catch the assailants, however, he managed to catch only one of the assailants and rest of the assailants ran away. Dnyaneshwar made enquiries with Jagdish (deceased) about the names of the assailants; whereupon Jagdish had informed him some names including that of the present applicant. Dnyaneshwar who was Police Naik immediately noted down those names in his diary. It is seen that in the oral dying declaration, Jagdish has not stated the names of Vijay Istriwala and Latesh Karlekar. Hence, it cannot be said that the case of the

applicant is similar to that of the coaccused who have been granted bail.

5. Deceased Jagdish had sustained 29 injuries in the incident and the injured witness Vitthal has sustained three injuries in the incident i.e. two incised wounds and one stab wound.

6. Looking to the material on record, I do not think that this is a fit case to grant bail. Application is rejected.

(SMT.V.K.TAHILRAMANI,J.)